

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MCKESSON AUTOMATION, INC.,

Plaintiff,

v.

TRANSLOGIC CORPORATION and
SWISSLOG ITALIA S.p.A.,

Defendants.

C.A. No. 06-028-SLR/LPS

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to Magistrate Stark's Order in this case, dated June 5, 2008, Plaintiff and Defendants submit the following list of agreed upon and disputed claim terms or phrases appearing in the asserted claims of U.S. Patent Nos. 5,468,110 ("the '110 patent), and the 5,593,267 ("the '267 patent"). The parties agree that all claim terms not identified herein are to be construed in accordance with their plain and ordinary meanings. By proposing constructions for claim terms, agreeing with Plaintiff on constructions of claim terms, and/or accepting constructions of claim terms proposed by Plaintiff, Defendants do not waive and reserve all rights with respect to any invalidity contention outlined in Defendants' Fourth Revised Prior Art and Invalidity Statement, except that Defendants agree not to base any invalidity contention under 35 U.S.C. section 112 on the language of a construction of a claim term that was previously proposed by Plaintiff and accepted herein by Defendants.

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U.S. PATENT NO 5,468,110

CLAIM TERM	CLAIM	AGREED UPON CONSTRUCTION
package holding means	1, 8	The disclosed function is the holding of packages. The corresponding structures are the rods, brackets, shelves and dividers as disclosed at positions 30, 25, 29 and 31 of, e.g., FIG. 3-6, and col. 5, lines 10-19 and 25-40.
means for moving the automated picking means to selected storage locations	1	The disclosed function is moving the automated picking means to the selected storage locations. The corresponding structure is a vehicle that travels over a track, and is driven by a drive system including a motor, as disclosed at col. 5, line 49 – col. 6, line 2 and Fig. 6.
means for moving the picking means over the track	22	The disclosed function is moving the picking means over the track. The corresponding structure is the drive system including a motor disclosed at col. 5, line 52-55 and FIG. 6.

CLAIM TERM	CLAIM	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION
x,y coordinate/ x,y coordinate location	1	one or more points that designates the position of a package where the picking means selects, grabs and replaces packages. ¹	plain and ordinary meaning
picking means/automated picking means	1	The disclosed function is to hold packages and to select and place packages in the storage area locations. The corresponding structure is a device that includes a housing, a gripper, an extension rod and a storing rod as disclosed at col. 7, lines 57-64 and Fig. 7.	Function: "to hold packages, to select packages from the storage area locations and place packages in the storage area locations in accordance with computer controlled instructions" Corresponding Structure: picking means 38
package reader associated with the picking means	1	a device that provides the identity of a package to the computer directing the picking means	a package reader attached to the picking means

U.S. PATENT NO 5,593,267

CLAIM TERM	CLAIM	AGREED UPON CONSTRUCTION
means for moving the column with respect to the row	3	The disclosed function is the moving of the column with respect to the row. The corresponding structure is the drive system including a motor, as disclosed at col. 5, line 52 – col. 6, line 5 and FIG. 6.
means for storing a plurality of medicine packages/means for storing packages	4, 7	The disclosed function is the storing of a plurality of medicine packages. The corresponding structure is a storage rod as disclosed at col. 8, lines 18-23 and Figs. 7-11.
identifying means	4	The disclosed function is the identification of a package. The corresponding structure is the bar code reader as

¹ During the meet and confer on June 12-13, 2008 regarding the Joint Claim Construction Statement, Plaintiff informed Defendants of its intention to remove two instances of the term "in a plane" from its construction of "x,y coordinate" and "x,y coordinate location." Defendants object to Plaintiff's change in construction of these terms at this juncture and after initial and rebuttal reports of the parties' technical experts have been served. Defendants have informed Plaintiff that they would also object to any attempt by Plaintiff to serve revised technical reports addressing these new constructions.

CLAIM TERM	CLAIM	AGREED UPON CONSTRUCTION
		disclosed at col. 5, line 66 – col. 6, line 18.
means for producing a suction	7	The disclosed function is the production of a suction. The corresponding structure is the vacuum generator as disclosed at col. 7, line 48 – col. 8, line 7 and FIG. 11.
means for sensing when a package is properly positioned	7	The disclosed function is the sensing of a package. The corresponding structure is the vacuum sensor as disclosed at col. 7, line 48 – col. 8, line 18 and FIG. 11.

CLAIM TERM	CLAIM	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION
x, y coordinate location/x and y coordinate	1, 7	one or more points that designates the position of a package where the picking means selects, grabs and replaces packages. ²	plain and ordinary meaning
means for picking medicine packages from the support rods	1	The disclosed function is the picking of medicine packages from the support rods. The corresponding structure is a device that includes a housing, a gripper, an extension rod, and a storing rod as disclosed at col. 7, lines 57-64 and Fig. 7.	Function: "picking medicine packages from the support rods in accordance with instructions received from a computer" Corresponding Structure: Picking means 38

² During the meet and confer on June 12-13, 2008 regarding the Joint Claim Construction Statement, Plaintiff informed Defendants of its intention to remove two instances of the term "in a plane" from its construction of "x,y coordinate location" and "x and y coordinate." Defendants object to Plaintiff's change in construction of these terms at this juncture and after initial and rebuttal reports of the parties' technical experts have been served. Defendants have informed Plaintiff that they would also object to any attempt by Plaintiff to serve revised technical reports addressing these new constructions.

CLAIM TERM	CLAIM	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION
means for obtaining a medicine package/obtaining means	4	The disclosed function is the obtaining of a medicine package. The corresponding structure is a device including a suction head, vacuum generator and an extension rod as disclosed at col. 7, line 60 – col. 8, line 33 and FIGS. 7 and 11.	Function: “obtaining a medicine package” Corresponding Structure: obtaining means 50
picking means for picking packages from the support rods in accordance with instructions received from a computer	7	112 ¶6 construction not required. Plain and ordinary meaning.	Function: “picking packages from the support rods in accordance with instructions received from a computer” Corresponding Structure: picking means 38.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2008, I served by hand delivery and electronic filing the JOINT CLAIM CONSTRUCTION STATEMENT, using CM/ECF, which will send notification of such filing to the following:

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I also certify that, on this 16th day of June, 2008, I served the aforementioned document, by First Class Mail and email to the following participants:

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